

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MARYJO MILLER, individually and on)
behalf of her minor daughter, MARISSA)
MILLER; JAMI DAY, individually and on) Civil Action No. 09-540
behalf of her minor daughter, GRACE) (Judge Munley)
KELLY; JANE DOE, individually and)
on behalf of her minor daughter, NANCY)
DOE,)
)
Plaintiffs,)
)
v.)
)
GEORGE SKUMANICK, JR., in his official)
capacity as District Attorney of Wyoming)
County, Pennsylvania,)
)
Defendant.)

**MOTION FOR TEMPORARY RESTRAINING ORDER
AND/OR PRELIMINARY INJUNCTION**

Plaintiffs hereby move, under Fed. R. Civ. P. 65, for entry of a Temporary Restraining Order and/or Preliminary Injunction to enjoin defendant, Wyoming County District Attorney George Skumanick, and his officials, employees, agents and assigns, from initiating criminal charges against plaintiffs Marissa Miller, Grace Kelly and Nancy Doe for the two photographs at issue, or for any other

photographs of the girls unless the images depict sexual activity or exhibit the genitals in a lascivious way. As ground therefor, plaintiffs aver as follows:

1. Plaintiffs incorporate herein by reference the facts alleged in the *Verified Complaint*.
2. Plaintiffs also incorporate herein by reference the legal arguments contained in *Plaintiff's Legal Memorandum in Support of Motion for Preliminary Injunction*. Plaintiffs have satisfied the four-part test for granting a preliminary injunction.
3. As is more fully set forth in the accompanying legal memorandum, plaintiffs are likely to prevail on the merits of their constitutional claims under the First and Fourteenth Amendments to the U.S. Constitution.
4. Plaintiffs will suffer irreparable harm unless the requested injunctive relief is granted, harm for which there is no adequate remedy at law.
5. The granting of this injunction will not irreparably harm the defendant.
6. It is in the public interest to have the Court enjoin defendant from bringing a false and meritless prosecution against the plaintiff minors because they refuse to accede to defendant's demands that they agree to be placed on probation and participate in a re-education program.

7. Plaintiffs' counsel advised Defendant Skumanick earlier this morning, Wednesday, March 25, 2009, that plaintiffs would at this time present a motion for Temporary Restraining Order and/or Preliminary Injunction. A copy has already been served on Defendant Skumanick.
8. WHEREFORE, Plaintiffs respectfully request that this Court enter a Temporary Restraining Order and/or Preliminary Injunction to enjoin defendant, Wyoming County District Attorney George Skumanick, and his officials, employees, agents and assigns, from initiating criminal charges against plaintiffs Marissa Miller, Grace Kelly and Nancy Doe for the two photographs at issue, or for any other photographs of the girls unless the images depict sexual activity or exhibit the genitals in a lascivious way.

Respectfully submitted,

/s/ Witold J. Walczak
Witold J. Walczak
PA ID No.: 62976

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/s/ Valerie A. Burch

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Counsel for Plaintiffs

March 25, 2009

CERTIFICATE OF SERVICE

I, Valerie A. Burch, HEREBY CERTIFY that on this 25th day of March, 2009, a copy of the foregoing Motion for Temporary Restraining Order and/or Preliminary Injunction, Memorandum in support thereof and proposed order, were delivered by email to

George P. Skumanick, Jr.
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/s/ Valerie A. Burch
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